

CRM-44888-2022
in CRR-1498-2022 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-44888-2022
in CRR-1498-2022 (O & M)
Date of Decision:11.04.2023

Gunjit Singh

... Applicant-Petitioner

Versus

State of Punjab and anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Yashpal Thakur, Advocate
for the applicant-petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

JASJIT SINGH BEDI, J.

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This is an application seeking restoration of the main case which
was dismissed for want of prosecution vide order dated 27.10.2022.

For the reasons mentioned in the application, the same is allowed
and main case is ordered to be restored to its original position and number.

On the oral request of the learned counsel for the petitioner, the
main case is taken up for hearing today itself.

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The present revision petition has been preferred against the judgment dated 04.08.2021 passed by the Additional Sessions Judge, Fatehgarh Sahib whereby the judgment of conviction dated 08.12.2016 passed by the Judicial Magistrate Ist Class, Fatehgarh Sahib has been affirmed.

2. The prosecution in the instant case was launched on the complaint of Dr. Tirath Bala Medical Officer, Civil Hospital, Amloh. In her complaint dated 13.03.2011 Dr. Tirath Bala alleged that at around 5:30 p.m. when she was doing her duty at Civil Hospital, Amloh some of the injured persons in a case pertaining to fight between two parties came to her for their medical examination who were attended to by her immediately. However, some members of the *jabr jullam front* who came there with one of the injured party started misbehaving with her and compelled her to re-conduct the medical examination of one of the persons. Meanwhile, a new patient for a delivery had come for admission and the accused obstructed her (complainant Dr. Tirath Bala) in the treatment of the said delivery patient, thereby causing obstruction in the discharge of her public work. She (complainant Dr. Tirath Bala) came to know about the names of the accused persons facing trial herein who had misbehaved and had caused obstruction in her official work and had moved the complaint dated 13.03.2011 which subsequently resulted in the registration of present FIR against them. Thereafter, investigation was carried out by the police authorities and challan under Sections 353/186 of IPC was presented.

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3. Copies of the challan and other documents were supplied to the accused persons free of cost as envisaged under section 207 Criminal Procedure Code 1973 (hereinafter referred to as Cr.PC). Thereafter, the accused were charge-sheeted U/s 353 of IPC only, to which they pleaded not guilty and claimed trial. Consequently, prosecution witnesses were summoned.

4. In order to bring home the guilt of the accused persons, Dr.Tirath Bala (complainant) appeared in the witness box as PW1. Mandeep Singh, Gulzar Khan (Clerk, Health & Welfare Deptt.) & ASI Gurmeet Singh were examined as PW2 to PW4 respectively. Thereafter, the prosecution closed its evidence.

5. The statements of the accused persons were recorded under Section 313 Cr.P.C. wherein they denied all the allegations and pleaded false implication. In defence, C Davinder Singh, Mewa Singh and Amrik Singh were examined as DW1, DW2 & DW3 respectively.

6. Based on the evidence led, the accused including the petitioner were convicted under Section 353 IPC by the Court of the Judicial Magistrate Ist Class, Fatehgarh Sahib on 08.12.2016 and sentenced to undergo rigorous imprisonment for 01 year as well as to pay a fine of Rs.2,000/- each.

7. Thereafter, two appeals were preferred by the present petitioner-Gunjit Singh and one of his co-accused, namely, Pal Singh on the one hand and Gurjant Singh (another co-accused of the petitioner) on the other. The said appeals came to be dismissed vide judgment dated 04.08.2021 passed by

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the Additional Sessions Judge, Fatehgarh Sahib. However, the sentence was modified and the convicted accused including the petitioner were ordered to be released on probation as per the aforesaid judgment.

8. The present revision petition has been preferred against the aforementioned judgments.

9. The learned counsel for the petitioner contends that the ingredients of Section 353 IPC were not made out. The prosecution had failed to prove that the complainant was on duty on the date of the occurrence, and therefore, it cannot be established that the occurrence had actually taken place. The mandatory compliance of Section 195 Cr.P.C. had not been made, and therefore, the Court could not have taken the cognizance of the case. Even otherwise, there were major discrepancies in the statements of the witnesses which falsified the prosecution case. It is, thus, his contention that the judgments of conviction were liable to be set aside.

10 I have heard the learned counsel for the petitioner.

11. The deposition of PW-2 Mandeep Singh and PW-3 Gulzar Khan would clearly establish beyond any shadow of doubt that the complainant Dr. Tirath Bala was posted at Civil Hospital, Amlloh on 13.03.2011 and was discharging her official duties as a public servant at the time of occurrence. There is no applicability of Section 195 Cr.P.C. as the accused were charge sheeted only for the offence under Section 353 IPC and not under Section 186 IPC for which the compliance of Section 195 Cr.P.C. was essential. Further,

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the testimonies of the witnesses including the complainant have established the case against the petitioner beyond any reasonable doubt.

12. In view of the aforementioned discussion, I find no merit in the present petition and the same is dismissed.

(JASJIT SINGH BEDI)
JUDGE

April 11, 2023
sukhpreet

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No